

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 455J.4(2), the Environmental Protection Commission hereby proposes to adopt new Chapter 111, “Annual Reports of Solid Waste Environmental Management Systems,” Iowa Administrative Code.

The purpose of new Chapter 111 is to implement 2008 Iowa Acts, House File 2570, which creates a solid waste environmental management systems program. Iowa Code section 455J.4 requires solid waste planning areas or permitted facility service areas that have been designated environmental management systems to submit an annual compliance report. Iowa Code subsection 455J.4(2) requires the Department to adopt by rule methods and criteria for determining whether a system is in compliance with the requirements of Iowa Code section 455J.3. In adopting methods and criteria, the statute requires the Department to consult with stakeholders. In response to this, two opportunities were provided for stakeholder comment and feedback. One took place June 15, 2011, at a Solid Waste Environmental Systems Workshop. The other took place June 29, 2011, over the Iowa Communications Network at six locations throughout the state. Comments and feedback from stakeholders have been incorporated in this Notice of Intended Action.

Any interested person may submit written comments on the proposed rules on or before January 23, 2012. Written comments should be sent to the Iowa Department of Natural Resources, Attn: Angie Clark, 502 E. 9th Street, Des Moines, Iowa 50319; fax (515)281-8895; or E-mail angie.clark@dnr.iowa.gov.

A public hearing will be held at 1 p.m. on January 11, 2012, at the Wallace State Office Building, Conference Room 5E, 502 E. 9th Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources and advise of specific needs.

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement Iowa Code section 455J.4.

The following amendment is proposed.

Adopt the following new 567—Chapter 111:

CHAPTER 111

ANNUAL REPORTS OF SOLID WASTE ENVIRONMENTAL MANAGEMENT SYSTEMS

567—111.1(455J) Purpose. This chapter establishes methods and criteria for determining whether a planning area’s or service area’s environmental management system is in compliance with the provisions of Iowa Code section 455J.3.

567—111.2(455J) Role of the department. Pursuant to Iowa Code subsection 455J.4(2), the department is responsible for the development and implementation of these rules.

567—111.3(455J) Applicability. This chapter applies to those planning and service areas that have been designated as environmental management systems and that seek to continue to be so designated. This is a voluntary program, and planning and service areas may elect to leave the program at any time.

Upon leaving the program, the planning or service area shall comply with the comprehensive planning requirements in 567—Chapter 101.

567—111.4(455J) Definitions. For the purposes of this chapter, the following definitions apply:

“*Annual report*” means the required submittal to the department that documents an environmental management system’s compliance with the requirements of Iowa Code section 455J.3.

“*Aspect*” means an element of a planning or service area’s activities or operations that can interact with the environment.

“*Audit*” means a planned, objective and documented assessment, either done internally by the program participant or its designee or externally by an independent third party, to determine the performance of a planning or service area’s system in relation to the designation requirements.

“*Council*” means the solid waste alternatives program advisory council appointed by the director pursuant to Iowa Code section 455J.6.

“*Environmental management system*” or “*EMS*” means the same as defined in Iowa Code section 455J.2(5).

“*Environmental policy*” means a statement by the planning or service area that includes:

1. The planning or service area’s intentions and principles in relation to its overall environmental performance, which provides a framework for action and for setting environmental objectives and targets; and
2. The planning or service area’s commitment to environmental compliance and continuous improvement.

“*Fenceline*” means the geographic area and the operations, facilities, and programs that the planning or service area has the ability to influence.

“*Impact*” means any change to the environment, whether adverse or beneficial, from an aspect of a planning or service area’s activities or operations.

“*Objective*” means an overall and quantifiable environmental goal arising from the planning or service area’s environmental policy.

“*Plan component*” means each of the six areas that are required to be addressed in an environmental management system, including: yard waste management, hazardous household waste collection, water quality improvement, greenhouse gas reduction, recycling services, and environmental education.

“*Planning area*” means the same as defined in rule 567—101.2(455B,455D).

“*Service area*” means that portion of a planning area that has been identified by the planning area to be a participant in the program. Only the service area is eligible for the program incentives described in Iowa Code section 455J.5.

“*Target*” means a detailed and quantifiable performance requirement that must be set and met in order to achieve the environmental objective. An objective may have several targets.

567—111.5(455J) Submittal of annual reports. Annual reports shall be submitted to the department by September 1 of each year and include all the requirements in 567—111.6(455J). Annual reports shall address activities that occurred during the previous state fiscal year that ended June 30. The reports shall be submitted on a form provided by the department.

567—111.6(455J) Contents of annual reports. The following elements shall be included in the annual report.

111.6(1) Executive summary. The executive summary shall include an overview of the environmental improvements and benefits achieved during the past year as related to the system’s objectives and targets. This summary would be similar to what is presented for management review.

111.6(2) Environmental policy statement. The annual report shall include a copy of the planning or service area’s environmental policy statement and the date it was last reviewed and, if appropriate, revised. A copy of the communication procedure or other documents describing how the environmental policy statement has been conveyed to staff, management, and other individuals having a formal role in the implementation of the EMS shall also be included.

111.6(3) *Aspects and impacts.* The annual report shall identify and evaluate the actual or potential significant aspects and impacts to the environment, whether adverse or beneficial, from the planning or service area's activities, services and facilities. A description of the significant impacts to the environment that have been determined and the methodology used for this determination shall be included. Any changes that occurred or may occur in the near future that are likely to affect the identified impacts in the coming year shall be described. Such changes may include, but are not limited to, the closure or opening of facilities, other changes to the EMS's fenceline, the initiation of major new programs, and the discontinuation of a major service.

111.6(4) *Legal and other requirements.* The annual report shall list the legal requirements for the planning or service area's operations and facilities included in its EMS fenceline, including but not limited to, relevant environmental laws, regulations and permits, and worker health and safety regulations. A process for tracking any changes in these requirements shall be described. A brief summary of the planning area's regulatory compliance performance for the previous year, including a listing of recurring or significant violations related to the identified legal requirements and how they were or are being resolved, shall be included.

111.6(5) *Plan components.* The following elements shall be addressed for each of the six plan components.

a. Objectives and targets. This element describes the objective(s) relevant to the plan component and the targets established for achieving the objective(s).

b. Action plan. This element provides a plan that describes the actions necessary to achieve the objectives and targets. The plan includes the identification of the individuals and organizations responsible for carrying out specific tasks, time lines for completion of each step in the plan, and a schedule for periodically reviewing and updating, as conditions dictate, the objectives and targets.

c. Communication and training. This element describes the processes that have been established for internal and external communication.

(1) External communication includes reaching out to those groups and organizations that have been identified as having an interest, stake, or role in the planning or service area's ongoing EMS program. There shall also be procedures for receiving and responding to relevant communication from external interested parties.

(2) Internal communication is directed to individuals, organizations and entities that have a role or responsibility within the action plan. Internal communication includes a process to ensure that all responsible parties are familiar with the EMS and have the training necessary to capably execute their roles. A description of the training provided to responsible parties shall be included.

d. Monitoring and measurement. This element describes the documented process for monitoring key activities and, at a minimum, measuring performance related to each objective and target.

e. Assessment. This element provides documented procedures for assessing the performance of the component's action plan(s) in terms of achieving the stated objectives and targets and conformance with the overall EMS. The assessment element shall draw conclusions from the performance measurements.

f. Reevaluation and modification. The reevaluation and modification element is an activity that allows a planning or service area to improve and strengthen the EMS on an ongoing basis. This element considers areas where the EMS has met, exceeded, or failed to meet expectations. For each plan component, the report shall identify root causes of those outcomes and develop revised goals and activities appropriate to each.

111.6(6) *Internal audit.* A copy of the result of the latest internal audit that includes the date(s) it was conducted and the identity of the auditor(s) shall be provided as part of the report. An internal audit shall be conducted each state fiscal year.

111.6(7) *External audit.* An external audit shall occur each state fiscal year. The date of the latest external audit or the date the audit will take place, along with the identity and pertinent qualifications of the independent, third-party auditor(s) shall be provided. The results of the external audit shall be incorporated into the report. The department has a prequalification process for external auditors.

567—111.7(455J) Evaluation criteria. Each annual report shall be reviewed by the council, and a determination as to whether a planning or service area's EMS is in compliance with Iowa Code section 455J.3 shall be made by October 1 of each year. Reports shall be reviewed for the following:

1. Completeness in terms of addressing all of the elements set forth in 567—111.6(455J).
2. Progress toward achieving the objectives and targets set forth in the EMS.
3. Clear demonstration of continuous improvement in terms of progress toward achieving the objectives and targets set forth in the EMS.

Upon achievement of these objectives and targets, a reevaluation and decision will be needed to verify whether a new target should be assigned to an objective or, if the objectives and targets were not achieved, what new initiatives should be incorporated into the EMS. Planning and service areas shall review procedures on a regular basis and revise as appropriate.

567—111.8(455J) Evaluation outcomes.

111.8(1) If the council determines that the annual report adequately demonstrates compliance with the requirements of Iowa Code section 455J.3, the planning or service area shall remain designated as an EMS and shall continue to be qualified for the incentives set forth in Iowa Code section 455J.5.

111.8(2) If the council determines that the annual report clearly demonstrates that the planning or service area's EMS is no longer in compliance with Iowa Code section 455J.3, the council may recommend to the environmental protection commission the revocation of the EMS designation. If the commission concurs with the council's recommendation, the planning or service area shall adhere to the comprehensive planning requirements in 567—Chapter 101.

111.8(3) Failure by a planning or service area to submit an annual report by September 1 in any year will result in revocation of the EMS designation, following which the planning or service area shall adhere to the comprehensive planning requirements in 567—Chapter 101.

These rules are intended to implement Iowa Code section 455J.4.